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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,497	02/22/2002	Yoshinori Yuki	04329.2740	9352
22852	7590	10/18/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			BELLO, AGUSTIN	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

<b>Office Action Summary</b>	<b>Application No.</b> 10/079,497	<b>Applicant(s)</b> YUKI ET AL.	
	<b>Examiner</b> Agustin Bello	<b>Art Unit</b> 2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Liu (U.S. Patent No. 6,782,198).

Regarding claims 1, 2, 3, 6, 8, 10, and 13-19, Liu teaches an optical path control device (reference numeral 142 in Figure 5) comprising a communication interface (reference numeral 210 in Figure 5) which transfers information between another device (reference numeral 146 in Figure 5) and an optical path control section (reference numeral 105 in Figure 6), and said optical path control device controlling an optical path setting in accordance with information transferred via a communication interface (column 5 lines 21-56), means (Figures 4-7, 9) for setting a current optical path on a route via said clockwise or counterclockwise optical transmission line extending from said start node to said end node, and setting a spare optical path on a route reverse to said current optical path extending from said start node to said end node; means (reference numeral 250, 260 in Figure 4-7, 9) for sharing said spare optical path among said current optical paths having different routes; means (reference numeral 105 in Figure 4-7, 9) for, when a node which terminates said current optical path detects a trouble pertaining to reception of an optical signal, outputting an optical signal to both said current optical path and

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said spare optical path, sending an alarm signal to an opposite node of said current optical path having the trouble, and switching inputting of optical signals to said spare optical path; and means for (reference numeral 250, 260 in Figure 4-7, 9), when a node which terminates said current optical path detects the alarm signal, outputting an optical signal to both said current optical path and said spare optical path, and switching inputting of optical signals spare optical path.

Regarding claim 4, 11, Liu teaches means (reference numeral 142 in Figure 4-7, 9) for setting said current optical path between nodes by a shortest route.

Regarding claim 5, 12, Liu teaches means (reference numeral 150, 160 in Figure 00) for setting said current optical path and said spare optical path in two ways between nodes.

Regarding claim 7, 9, Liu teaches means (Figures 4-7, 9) for setting a current optical path on a route via said clockwise or counterclockwise optical transmission line extending from said start node to said end node, and setting a spare optical path on a route reverse to said current optical path extending from said start node to said end node, said network manager (reference numeral 146 in Figure 5) including optical path requesting means for requesting at least one node forming an optical path to set an optical path; said node including optical path setting means (reference numeral 220 in Figure 5; reference numeral 250, 260 in Figure 4-7, 9) for setting an optical path between nodes forming an optical path on the basis of the request from said network manager; said optical path requesting means including means (e.g. within reference numeral 146 in Figure 5) for checking whether an optical path can be set, means (reference numeral 105 in Figure 4-7, 9) for determining a node to be requested to set an optical path, and means (reference numeral 105 in Figure 4-7, 9) for checking whether said spare optical path can

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be shared, said optical path setting means (reference numeral 105 in Figure 4-7, 9) including means for setting an insertion wavelength of an optical path, means for setting a conversion wavelength of an optical path, and means for setting a branching wavelength of an optical path, said means (reference numeral 105 in Figure 4-7, 9) for checking whether said spare optical path can be shared including means determining that said spare optical path can be shared when routes of said current optical paths set between nodes do not overlap, and requesting at least one node to set an optical path so as to form a new spare optical path by sharing an existing spare optical path and said optical path setting means including means for forming a new spare optical path by sharing a wavelength used by an existing spare optical path, when requested by said network manager to form the new spare optical path by sharing the existing spare optical path.

### *Response to Arguments*

3. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection. The examiner has cited parts of the reference that meet the newly added limitations. Furthermore, the examiner maintains that the cited reference reads on the originally submitted claim language.

### *Conclusion*

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agustin Bello whose telephone number is (571) 272-3026. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AB

  
**AGUSTIN BELLO**  
**PRIMARY EXAMINER**